

§ 201.30

agent or representative, has been suspended or debarred, or has otherwise been determined by HUD to be ineligible to participate in the title I program.

Subpart D—Insurance of Loans

§ 201.30 Reporting of loans for insurance.

(a) *Date of reports.* The lender shall transmit a loan report on each loan reported for insurance within 31 days from the date of the loan's origination or purchase from a dealer or another lender. The loan report must be submitted on the form prescribed by the Secretary, and must contain the data prescribed by HUD. Any loan refinanced under this part shall similarly be reported on the prescribed form within 31 days from the date of refinancing. When a loan insured under this part is transferred to another lender without recourse, guaranty, guarantee, or repurchase agreement, a report on the prescribed form shall be transmitted to the Secretary within 31 days from the date of the transfer. No transfer of loan report is required when a loan insured under this part is transferred with recourse or under a guaranty, guarantee, or repurchase agreement.

(b) *Late reports.* The Secretary may accept a late report on a loan where the lender certifies that the obligation is not in default.

(c) *Electronic loan reporting.* With the prior approval of the Secretary, the lender may use electronic transmission to report loans for insurance in accordance with paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 2502-0328)

[50 FR 43523, Oct. 25, 1985, as amended at 56 FR 52434, Oct. 18, 1991; 66 FR 56420, Nov. 7, 2001]

§ 201.31 Insurance charge.

(a) *Insurance charge.* For each eligible property improvement loan and manufactured home loan reported and acknowledged for insurance, the lender shall pay to the Secretary an insurance charge equal to 1.00 percent of the loan amount, multiplied by the number of years of the loan term. The insurance

24 CFR Ch. II (4-1-11 Edition)

charge shall be paid in the manner prescribed in paragraph (b) of this section; however, no charge shall be made for a period of 14 days or less, and a charge for a full month shall be made for a period of more than 14 days. There shall be no abatement or refund of an insurance charge except as provided in paragraph (e) of this section.

(b) *Payment of insurance charge.* (1) For any loan having a maturity of 25 months or less, payment of the entire insurance charge prescribed in paragraph (a) of this section is due on the 25th calendar day after the date the Secretary acknowledges the loan report.

(2)(i) For any loan having a maturity in excess of 25 months, payment of the insurance charge shall be made in annual installments, with the first installment due on the 25th calendar day after the date the Secretary acknowledges the loan report, and the second and successive installments due on the 25th calendar day after the date of billing by the Secretary.

(ii) For any loan having a maturity in excess of 25 months, payment shall be made in annual installments of 1.00 percent of the loan amount until the insurance charge is paid.

(3) All insurance charges are considered earned when paid.

(4) The Secretary may require that loan insurance charges be remitted electronically. Instructions implementing this requirement shall be communicated to all affected lenders.

(c) *Penalty charge and interest.* Insurance charges not received from the lender by the due date specified in paragraph (b) of this section shall be assessed a penalty charge of four percent of the amount of the payment. Insurance charges received from the lender more than 30 days after the due date specified in paragraph (b) of this section shall also be assessed daily interest at the current United States Treasury value of funds rate, as published periodically in the FEDERAL REGISTER. However, no penalty charge or daily interest shall be assessed if the Secretary fails to acknowledge receipt of the loan report or fails to issue a proper billing to the lender for the insurance charges.

(d) *Adjustment on notes transferred.* Where there is a transfer of loan obligations between lenders and the insurance charges on such obligations have already been paid, any adjustment of such charges shall be made by the lenders involved. Any unpaid installments of the insurance charge shall be paid by the purchasing lender.

(e) *Refund or abatement of insurance charges.* A lender shall be entitled to a refund or abatement of insurance charges only in the following instances:

(1) Where the loan obligation has been refinanced, the unearned portion of the charge on the original obligation shall be credited to the charge on the refinanced loan.

(2) Where the loan obligation is prepaid in full or an insurance claim is filed, charges falling due after such prepayment or claim shall be abated.

(3) When a loan (or portion thereof) is found to be ineligible for insurance, charges paid on the ineligible portion shall be refunded, except where the Secretary determines that there was fraud or misrepresentation by the lender in the loan transaction. Such refund shall be made only if a claim is denied by the Secretary or the ineligibility is reported by the lender promptly upon discovery and confirmed by the Secretary. In no event shall a charge be refunded on the basis of loan ineligibility where the application for refund is made after the loan is paid in full. If a loan or claim has been denied and is subsequently resubmitted, the refunded amount of the insurance charge plus any accrued insurance charge shall be repaid.

(f) *Lender passing insurance charge on to borrower.* The insurance charge may be passed on to the borrower, provided that such charge is fully disclosed to the borrower.

[50 FR 43523, Oct. 25, 1985, as amended at 54 FR 36265, Aug. 31, 1989; 60 FR 13855, Mar. 14, 1995; 66 FR 56420, Nov. 7, 2001]

§ 201.32 Insurance coverage reserve account.

(a) *Establishment.* The Secretary shall establish an insurance coverage reserve account for each lender. The amount of insurance coverage in each reserve account shall equal 10 percent of the

amount disbursed, advanced, or expended by the lender in originating or purchasing eligible loans registered for insurance under this part, less the amount of all insurance claims approved for payment in connection with losses on such loans.

(b) *Transfer of insured loans.* The lender shall not sell, assign or otherwise transfer any insured loan or loan reported for insurance to a transferee lender not approved to originate and purchase title I loans under a valid title I contract of insurance. Nothing contained herein shall be construed to prevent the pledging of such a loan as collateral security under a trust agreement, or otherwise, in connection with a bona fide loan transaction.

(c) *Transfer of insurance coverage.* Not more than \$5,000 in insurance coverage shall be transferred to or from a lender's reserve account during any fiscal year (October 1 through September 30) without the prior approval of the Secretary. Except in cases involving the sale, assignment or transfer of loans sold with recourse or under a guaranty, guarantee or repurchase agreement, the Secretary shall transfer insurance coverage to or from a lender's reserve account to accompany the loan transfers reported by lenders under § 201.30.

(1) In all cases involving the sale, assignment or transfer of loans sold without recourse, guaranty, guarantee, or repurchase agreement, the Secretary shall transfer insurance coverage to the reserve account established for the transferee lender in an amount equal to 10 percent of the actual purchase price or the net unpaid principal balance, whichever is lesser, but not to exceed the amount of insurance coverage in the transferor lender's reserve account prior to the transfer. Insurance coverage shall be added to the existing amount of insurance coverage in the transferee lender's reserve account. The Secretary may transfer insurance coverage with earmarking when a determination is made that it is in the Secretary's interest to do so.

(2) In cases involving the transfer of loans sold with recourse or under a guaranty, guarantee or repurchase agreement, no insurance coverage will be transferred and no reports will be required.